

Amendment No. 1 to SB0812

Stanley
Signature of Sponsor

AMEND Senate Bill No. 812*

House Bill No. 1278

by deleting the word "or" at the end of 47-18-5403(c)(3) of the amendatory language of SECTION 1; by redesignating 47-18-5403(c)(4) as subdivision (c)(5); and by inserting the following language as a new subdivision (c)(4):

(4) Any person who is engaged in the credit services business as defined in § 47-18-1002(a) but is not engaged in the business of debt counseling, debt management, or debt settlement as defined by this part provided that such person is registered as a credit services business with the administrator; or

AND FURTHER AMEND by deleting the language "least a or equivalent" in 47-18-5405(b)(4)(B), 47-18-5411(b)(5)(B), and 47-18-5414(a)(1)(A) of the amendatory language of SECTION 1 and by substituting instead the language "least A or equivalent".

AND FURTHER AMEND by deleting 47-18-5405(b)(6) of the amendatory language of SECTION 1 in its entirety and by substituting instead the following as a new subdivision (b)(6):

(6) If the applicant is exempt from taxation under the Internal Revenue Code, 26 U.S.C. § 501, evidence of that status.

AND FURTHER AMEND by deleting 47-18-5406(7) of the amendatory language of SECTION 1 in its entirety and by substituting instead the following as a new subdivision (7):

(7) The applicant's financial statements, reviewed by a licensed accountant, for each of the two (2) years immediately preceding the application or, if it has not been in operation for the two (2) years preceding the application, for the period of its existence. If the applicant claims nonprofit or tax exempt status, or if the applicant's business practices involve holding, accessing, or directing the funds of an individual, the financial statements required by this part shall be audited by a licensed accountant;

AND FURTHER AMEND by deleting the word "or" at the end 47-18-5409(c)(3) of the amendatory language of SECTION 1; by redesignating 47-18-5409(c)(4) as subdivision (c)(5); and by inserting the following language as a new subdivision (c)(4):

(4) The application is not accompanied by the fee established by the administrator; or

AND FURTHER AMEND by deleting the language "the information required by § 54-18-5406(14)," in 47-18-5411(b)(4) of the amendatory language in SECTION 1 and by substituting instead the language "the information required by § 47-18-5406(14),"

AND FURTHER AMEND by inserting the language "to a creditor or provider" between the language "periodic payments" and the punctuation ":" in 47-18-5417(b)(3) of the amendatory language of SECTION 1.

AND FURTHER AMEND by deleting the language "record that contains nothing else, that is given separately," in 47-18-5417(d) in the amendatory language SECTION 1 and by substituting instead the language "separate record".

AND FURTHER AMEND by deleting the language "fifty percent (50%) of the principal amount of the debt" wherever it appears in 47-18-5419(e) in the amendatory language of SECTION 1 and by substituting instead the language "fifty percent (50%) of the outstanding amount of the debt".

AND FURTHER AMEND by deleting 47-18-5423(f) in the amendatory language of SECTION 1 in its entirety and by substituting instead the following:

(f) Except as otherwise provided in subsections (c) and (d), if an agreement contemplates that creditors will settle an individual's debts for less than the principal amount of the debt, compensation for services in connection with settling a debt may not exceed the applicable settlement fee limits in subdivisions (1) and (2) the terms of which shall be clearly disclosed in the agreement.

(1) With respect to an agreement that provides for a flat settlement fee based on the overall amount of included debt, the total aggregate amount of fees charged to any individual under this chapter, including fees charged under

subdivisions (d)(2)(A) and (B), may not exceed seventeen percent (17%) of the principal amount of debt included in the agreement at the inception of the agreement. The flat settlement fee authorized under this subdivision (1) shall be assessed in equal monthly payments over at least half the length of the plan, as estimated at the plan's inception, unless the payment of fees is voluntarily accelerated by the individual in a separate record and at least half of the overall amount of outstanding debt covered by the agreement has been settled.

(2) With respect to agreements in which fees are calculated as a percentage of the amount saved by an individual, a settlement fee may not exceed thirty percent (30%) of the excess of the outstanding amount of each debt over the amount actually paid to the creditor, as calculated at the time of settlement. Settlement fees authorized under this subdivision (2) shall become billable only as debts are settled, and the total aggregate amount of fees charged to any individual under this part, including fees charged under subdivisions (d)(2)(A) and (B), may not exceed twenty percent (20%) of the principal amount of debt included in the agreement at the agreement's inception.

(3) A provider may not impose or receive fees under both subdivisions (1) and (2).

AND FURTHER AMEND by deleting the language "more than fifty percent (50%) of the principal amount" in 47-18-5428(a)(2) and (a)(3) in the amendatory language of SECTION 1 and by substituting instead the language "more than fifty percent (50%) of the outstanding amount".

AND FURTHER AMEND by inserting the language at the end of 47-18-5428(a)(11) in the amendatory language SECTION 1, "or is part of a payment plan, the terms of which are included in the certification, that upon completion, will lead to full settlement of the debt."

AND FURTHER AMEND by inserting the language "except to the extent such services are expressly authorized by the administrator" between the language "personal finance" and the punctuation ";" in 47-18-5428(b)(7) of the amendatory language of SECTION 1.

AND FURTHER AMEND by adding the following language as a new subsection (h) in 47-18-5432 of the amendatory language of SECTION 1:

(h) The administrator shall prescribe fees and penalties under this chapter such that all fees collectively shall sustain the requirements of this part pursuant to the requirements of § 4-29-121.